

Notice of Allowability

Application No.

10/773,832

Applicant(s)

STEAGALL ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on January 11, 2005.
2. ☒ The allowed claim(s) is/are 5,6,8 and 29-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>1/05, 1/05</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Preliminary Amendment

1. The Preliminary Amendment submitted on January 11, 2005, has been entered. Claims 11 – 51 have been entered. Therefore, the pending claims are 1 – 51.
2. The amendment to the specification filed on January 11, 2005 has been entered.

Election/Restrictions

3. This application contains claims directed to the following patentably distinct species: a nonwoven/foam composite with two different density nonwoven layers surrounding a foam core (claims 1 – 4, 9 – 28, and 46 – 51) and a nonwoven/foam composite with a fibrous subcore within the foam layer (claims 5 – 8 and 29 – 45). The species are independent or distinct because the composite have distinct structure which are not obvious variants of each other.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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4. During a telephone conversation with Michael Bush on November 14, 2006 a provisional election was made with traverse to prosecute the invention of claims 5 – 8 and 29 – 45.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 1 – 4, 9 – 28, and 46 – 51 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Bush on November 20, 2006.

The application has been amended as follows:

Please Cancel Claims 1 – 4, 7, 9 – 28, and 46 – 51.

Amend Claim 8, in line 1, replace "7" with --5--.

Drawings

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7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 249 on page 10, paragraph 25.

8. The drawings are objected to because in paragraph 29, describing Figure 3A, the specification uses number 200 to describe the lower side surface which is in Figure 2 and not in Figure 3A. Also, in paragraph 32, the specification uses number 270 to describe the outer layer which is in Figure 2 and not in Figure 3A. Further, in paragraph 33, describing Figure 4, the specification uses number 300 to describe the seat cushion which is in Figure 3A-B and not in Figure 4. Additionally, in paragraph 36, the specification mistakenly states it is referring to Figures 3 A-B instead of Figure 4. Also, in paragraph 38, describing Figure 5, the specification uses number 450 to describe the inner core, which is in Figure 4 and not in Figure 5.

9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Reasons For Allowance

10. The following is an examiner's statement of reasons for allowance:

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11. The prior art fails to teach or fairly suggest a nonwoven/foam composite comprising a foam core, a first and second outer nonwoven fibrous batt layer, and an intermediate fiber batt within the foam core to form a fiber subcore. While the prior art discloses placing fibrous batts around a foam core in composite cushioning or support structures, the prior art fails to teach or suggest to place the fibrous batt within or between the foam core in the composite structure.

12. It is noted that claims 1 – 4, 9 – 28, and 46 – 51 were cancelled since they were drawn to nonelected claims. Further, claim 7 was cancelled since it was substantially a duplicate of claim 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlb

January 23, 2007


JENNA BEFUMO
PRIMARY EXAMINER